

Introduced by Senator Cox

February 22, 2005

An act to ~~amend Section 13207 of~~ add Section 4055 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 775, as amended, Cox. California regional water quality control board members: conflicts of interest.

Existing law provides for the establishment of watermaster service areas by the Department of Water Resources for the purpose of ensuring the most practical and economic supervision of the distribution of water. Existing law permits the appointment by the department of a watermaster in a service area upon the written request of owners or governing bodies of at least 15% of the conduits lawfully entitled to directly divert water in that service area.

This bill would permit a court upon a petition of a similar percentage of owners or governing bodies in the service area to appoint a watermaster in lieu of an appointment by the department, with the powers and duties of a watermaster appointed by the department, except as the court otherwise orders.

~~Existing law, the Porter-Cologne Water Quality Control Act, prohibits a member of a California regional water quality control board from participating in certain board actions that involve that member or any waste discharger with which that board member is connected as a director, officer, or employee, or in which that board member has a financial interest, as defined by the Political Reform Act.~~

~~This bill would authorize a board member to participate in those specified board actions if the actions are applicable on a region-wide~~

basis, are not decisions in which the board member has a financial interest, and are not actions required to be undertaken pursuant to the Clean Water Act.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 13207 of the Water Code is amended to~~
2 ~~read:~~
3 ~~SECTION 1. Section 4055 is added to the Water Code, to~~
4 ~~read:~~
5 ~~4055. (a) Upon petition of the owners or governing bodies of~~
6 ~~at least 15 percent of the conduits lawfully entitled to directly~~
7 ~~divert water from the streams or other sources of water supply in~~
8 ~~any service area for which the department has appointed a~~
9 ~~watermaster pursuant to Section 4050, and upon notice to all~~
10 ~~other owners or governing bodies in the service area, a court~~
11 ~~with appropriate jurisdiction may, if good cause exists therefor,~~
12 ~~appoint a watermaster in lieu of an appointment by the~~
13 ~~department. The watermaster appointed by the court shall have~~
14 ~~all of the powers and duties enumerated in this part, except as~~
15 ~~ordered by the court.~~
16 ~~(b) Nothing in this section shall affect the authority of any~~
17 ~~court to appoint a watermaster without reference to Section~~
18 ~~4050, or the court's supervision of a watermaster so appointed.~~
19 ~~13207. (a) (1) Subject to paragraph (2), no member of a~~
20 ~~regional board shall participate in any board action pursuant to~~
21 ~~Article 4 (commencing with Section 13260) of this chapter, or~~
22 ~~Article 1 (commencing with Section 13300) of Chapter 5, that~~
23 ~~involves himself or herself or any waste discharger with which~~
24 ~~he or she is connected as a director, officer or employee, or in~~
25 ~~which he or she has a financial interest in the decision within the~~
26 ~~meaning of Section 87103 of the Government Code.~~
27 ~~(2) Notwithstanding any other provision of law, a member of a~~
28 ~~regional board may participate in a board action described in~~
29 ~~paragraph (1) if all of the following requirements are met:~~
30 ~~(A) The action applies on a region-wide basis.~~

1 ~~(B) The action is not a decision in which the board member~~
2 ~~has a financial interest within the meaning of Section 87103 of~~
3 ~~the Government Code.~~

4 ~~(C) The action is not taken pursuant to Chapter 5.5~~
5 ~~(commencing with Section 13370).~~

6 ~~(3) This subdivision does not affect Section 13388.~~

7 ~~(b) No board member shall participate in any proceeding~~
8 ~~before any regional board or the state board as a consultant or in~~
9 ~~any other capacity on behalf of any waste discharger.~~

10 ~~(e) Upon the request of any person, or on the Attorney~~
11 ~~General's own initiative, the Attorney General may file a~~
12 ~~complaint in the superior court for the county in which the~~
13 ~~regional board has its principal office alleging that a board~~
14 ~~member has knowingly violated this section and the facts upon~~
15 ~~which the allegation is based and asking that the member be~~
16 ~~removed from office. Further proceedings shall be in accordance~~
17 ~~as near as may be with rules governing civil actions. If after trial~~
18 ~~the court finds that the board member has knowingly violated~~
19 ~~this section it shall pronounce judgment that the member be~~
20 ~~removed from office.~~